AUG 19 2016

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**Via email**

Anthony M. Barnes
amb@atalawgroup.com
415.326.3173

August 16, 2016

Via Certified Mail Return Receipt Requested

Re: Royal Gold LLC

To Whom it May Concern:

Please accept the enclosed, amended Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act ("Clean Water Act") (33 U.S.C. §§ 1251 et seq.) Due to a clerical error, the August 10, 2016 version of the notice was missing attachment A.

If you have questions, please contact me at amb@atalawgroup.com or (917) 371-8293.

Very truly yours,

Anthony M. Barnes
**AQUA TERRA AERIS LAW GROUP**

AUG 19 2016

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LAW GROUP

**August 16, 2016**

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Chad Waters, Owner
Royal Gold LLC
1689 Glendale Dr.
McKinleyville, CA 95519

Chip Baker, Owner
Royal Gold LLC
600 F St Suite 3 #603
Arcata, CA 95521

Chad Waters
Agent for Service of Process
Royal Gold LLC
4228 Lentell Rd.
Eureka, CA 95503

Eric Free, Manager
Royal Gold LLC
600 F St Suite 3 #603
Arcata, CA 95521

**RE: NOTICE OF VIOLATIONS AND INTENT TO FILE SUIT UNDER THE FEDERAL WATER POLLUTION CONTROL ACT ("CLEAN WATER ACT") (33 U.S.C. §§ 1251 *et seq.*)**

Dear Mr. Waters, Mr. Baker, & Mr. Free:

This firm represents Humboldt Baykeeper, a California non-profit association, in regard to violations of the Clean Water Act ("CWA" or "the Act") occurring at the Royal Gold, LLC facility at 1689 Glendale Dr. in an unincorporated area adjacent to Arcata, CA (the "Facility"). This letter is being sent to you as the responsible owners, officers, and/or operators of the Facility. Unless otherwise noted, Royal Gold, LLC shall hereinafter be referred to as "Royal Gold," and Chad Waters, Chip Baker and Eric Free shall hereinafter collectively be referred to as the "Owners/Operators." Humboldt Baykeeper is a non-profit association dedicated to safeguarding coastal resources for the health, enjoyment, and economic strength of the Humboldt Bay community through education, scientific research, and enforcement of laws to fight pollution, with a focus on the Humboldt Bay watershed and coastal waters from Trinidad Head to the Eel River, including the Mad River and Mill (Hall) Creek, into which Royal Gold discharges polluted storm water and non-storm water.

Royal Gold is in ongoing violation of the substantive and procedural requirements of the CWA, 33 U.S.C. § 1251 *et seq.*; and California's General Industrial Storm Water Permit, National Pollution Discharge Elimination System ("NPDES") General Permit No.

CAS000001 ("General Permit"), Water Quality Order No. 97-03-DWQ ("1997 General Permit"), as superseded by Order No. 2015-0057-DWQ ("2015 General Permit").[1]

The 1997 General Permit was in effect between 1997 and June 30, 2015, and the 2015 General Permit went into effect on July 1, 2015. As will be explained below, the 2015 General Permit includes many of the same fundamental requirements, and implements many of the same statutory requirements, as the 1997 General Permit. Violations of the General Permit constitute ongoing violations for purposes of CWA enforcement. 2015 General Permit, Finding A.6.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Royal Gold to a penalty of up to $37,500 per day, per violation for all violations occurring during the period commencing five years prior to the date of this Notice of Violation and Intent to File Suit. In addition to civil penalties, Humboldt Baykeeper will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) of the Act (33 U.S.C. §§ 1365(a), (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)) permits prevailing parties to recover costs and fees including attorneys' fees.

The CWA requires that sixty (60) days prior to the initiation of a citizen-enforcement action under Section 505(a) of the Act (33 U.S.C. § 1365(a)), a citizen enforcer must give notice of its intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency, and the Chief Administrative Officer of the water pollution control agency for the State in which the violations occur. *See* 40 C.F.R. 135.2.

As required by the Act, this letter provides statutory notice of the violations that have occurred, and continue to occur, at the Facility. 40 C.F.R. § 135.3(a). At the expiration of sixty (60) days from the date of this letter, Humboldt Baykeeper intends to file suit under Section 505(a) of the Act (33 U.S.C. § 1365(a)) in federal court against Royal Gold, LLC for violations of the Act and the General Permit.

## I. Background

### A. The Clean Water Act

Congress enacted the CWA in 1972 in order to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251. The Act prohibits the discharge of pollutants into United States waters except as authorized by the statute. 33 U.S.C. § 1311; *San Francisco Baykeeper, Inc. v. Tosco Corp.*, 309 F.3d 1153, 1156 (9th Cir. 2002). The Act is administered largely through the

[1] Royal Gold submitted a NOI to comply with the General Permit for the Facility on or about August 11, 2015.

NPDES permit program. 33 U.S.C. § 1342. In 1987, the Act was amended to establish a framework for regulating storm water discharges through the NPDES system. Water Quality Act of 1987, Pub. L. 100-4, § 405, 101 Stat. 7, 69 (1987) (codified at 33 U.S.C. § 1342(p)); *see also Envtl. Def. Ctr., Inc. v. EPA*, 344 F.3d 832, 840-41 (9th Cir. 2003) (describing the problem of storm water runoff and summarizing the Clean Water Act's permitting scheme). The discharge of pollutants without an NPDES permit, or in violation of a NPDES permit, is illegal. *Ecological Rights Found. v. Pac. Lumber Co.*, 230 F.3d 1141, 1145 (9th Cir. 2000).

Much of the responsibility for administering the NPDES permitting system has been delegated to the states. *See* 33 U.S.C. § 1342(b); *see also* Cal. Water Code § 13370 (expressing California's intent to implement its own NPDES permit program). The CWA authorizes states with approved NPDES permit programs to regulate industrial storm water discharges through individual permits issued to dischargers, as well as through the issuance of a single, statewide general permit applicable to all industrial storm water dischargers. 33 U.S.C. § 1342(b). Pursuant to Section 402 of the Act, the Administrator of EPA has authorized California's State Board to issue individual and general NPDES permits in California. 33 U.S.C. § 1342.

### B. California's General Permit for Storm Water Discharges Associated with Industrial Activities

Between 1997 and June 30, 2015, the General Permit in effect was Order No. 97-03-DWQ, which Humboldt Baykeeper refers to as the "1997 General Permit." On July 1, 2015, pursuant to Order No. 2015-0057-DWQ the General Permit was reissued, including many of the same fundamental terms as the prior permit. For the purposes of this notice letter, Humboldt Baykeeper refers to the reissued permit as the "2015 General Permit." The 2015 General Permit rescinded in whole the 1997 General Permit, except for the expired permit's requirement that annual reports be submitted by July 1, 2015, and for purposes of CWA enforcement. 2015 General Permit, Finding A.6.

Facilities discharging, or having the potential to discharge, storm water associated with industrial activities that have not obtained an individual NPDES permit must apply for coverage under the General Permit by filing a Notice of Intent to Comply ("NOI"). 1997 General Permit, Provision E.1; 2015 General Permit, Standard Condition XXI.A. Facilities must file their NOIs before the initiation of industrial operations. *Id.*

Facilities must strictly comply with all of the terms and conditions of the General Permit. A violation of the General Permit is a violation of the CWA.

The General Permit contains three primary and interrelated categories of requirements: (1) discharge prohibitions, receiving water limitations and effluent limitations; (2) Storm Water Pollution Prevention Plan ("SWPPP") requirements; and (3) self-monitoring and reporting requirements.

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### C. Royal Gold's Glendale Facility

Royal Gold's industrial facility is located at 1689 Glendale Drive, in the unincorporated community of Glendale, CA 95519. The Facility currently consists of approximately 15.5 acres comprising a potting soil mixing operation, with upon information and belief, expansion plans to include a total collection of parcels of approximately 28.55 acres with greatly expanded industrial operations. The entire site sits at an elevation of less than 100 feet above sea level. A former mill site, industrial debris such as broken equipment, metal chunks, and other trash are thought to litter parts of the site. The site contains large compost areas, a sediment basin and separate sediment trap, ponds and other water features, numerous uncovered stockpile areas, a bagging area, water tanks, detention basins, raw materials receiving, mixing and storage areas, finished product loading areas, boneyards, and parking and other areas. Heavy equipment on site includes large front loader tractors used to move and mix soil, and an industrial mixer with loader bucket. The industrial activities of the Facility fall under Standard Industrial Classification ("SIC") Code 2875, Fertilizers, Mixing Only.

Royal Gold discharges storm water associated with industrial activities pursuant to the General Permit through at least three discharge areas, where streams exit the site, and upon information and belief, other culverts and runoff areas. Streams exit the site from at least four locations on the site, but one of these locations, Discharge Point 3 is alleged to comingle with adjacent property run-on, and has been excluded from sampling. The active sampling sites for these discharge locations are identified in the SWPPP as Discharge Point 1, Discharge Point 2, and Discharge Point 4. Discharge Points 1 & 2 are on the western side of the Facility, while Discharge Point 4 is on the eastern portion of the Facility. Upon information and belief, polluted non-storm water drains through a culvert on the southwest portion of the Facility near to Discharge Point 1 & 2. These discharges enter the Mad River and Mill (Hall) Creek, which is a tributary to the Mad River. The Mad River and Mill (Hall) Creek are waters of the United States within the meaning of the CWA.

The General Permit requires Royal Gold, to analyze storm water samples for Total Suspended Solids ("TSS"), Oil and Grease, and pH. 1997 General Permit, Section B.5.c.i; 2015 General Permit, Section XI.B.6. Facilities under SIC Code 2875 must also analyze storm water samples for Iron, Nitrate and Nitrate Nitrogen, Lead, Zinc, and Phosphorous. 1997 General Permit, Tables 1-2; 2015 General Permit Tables 1-2. Upon information and belief, because of the use of organic soil mix materials creates a potential for Chemical Oxygen Demand ("COD"), testing for COD limits was also instituted by the SWPPP (dated July 2015) Based upon information available to Humboldt Baykeeper, pH testing results were submitted by the Owners/Operators of Royal Gold in November of 2015, but not in June of 2016.

## II. Royal Gold's Violations of the Act and the General Permit

Based on its review of available public documents, Humboldt Baykeeper is informed and believes that Royal Gold is in ongoing violation of both the substantive and procedural requirements of the CWA, and the General Permit. These violations are ongoing and continuous. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the CWA, Royal Gold is subject to penalties for violations of the Act since August 10, 2011.

Contaminated storm water and non-storm water discharges can and must be controlled for the Humboldt County and North Coastal Basin ecosystem to regain and maintain its health. Information available to Humboldt Baykeeper indicates that industrial operations at the Facility are conducted outdoors without adequate cover or containment to prevent non-storm water and storm water exposure to pollutant sources or direct discharge of pollutants via air deposition into surface waters.

### A. Royal Gold Discharges Storm Water Containing Pollutants in Violation of the General Permit's Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations.

Royal Gold's storm water sampling results provide conclusive evidence of its failure to comply with the General Permit's discharge prohibitions, receiving water limitations and effluent limitations. Self-monitoring reports under the General Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

### B. Royal Gold Discharges Non-Storm Water Containing Pollutants in Violation of the General Permit's Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations.

Information available to Humboldt Baykeeper suggests that Royal Gold discharges large quantities of unauthorized non-storm water, including but not limited to, water used to wash coco pith, in violation of the General Permit's discharge prohibitions, receiving water limitations and effluent limitations.

### C. Royal Gold's Aerial Deposition Containing Pollutants Enters Storm Drains and Surface Waters Without NPDES Coverage.

Pollution entering surface waters via air deposition is also recognized as a significant cause of degradation of water quality. Such discharges of pollutants from industrial facilities contribute to the impairment of downstream waters and aquatic dependent wildlife. Information available to Humboldt Baykeeper indicates that outdoor industrial operations at the Facility create dust and particulate matter from, for example

only, the grinding of coco pith, and the mixing of fertilizers with heavy equipment lacking containment or secondary containment. These activities have been ongoing since at least 2009 without proper permitting. This dust and particulate matter migrates to surface waters and/or the storm drain system of Humboldt County.

### D. Applicable Water Quality Standards

The General Permit requires that storm water discharges and authorized non-storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance. 1997 General Permit, Discharge Prohibition A.2; 2015 General Permit, Discharge Prohibition III.C. The General Permit also prohibits discharges that violate any discharge prohibition contained in the applicable Regional Water Board's Basin Plan or statewide water quality control plans and policies. 1997 General Permit, Receiving Water Limitation C.2; 2015 General Permit, Discharge Prohibition III.D. Furthermore, storm water discharges and authorized non-storm water discharges shall not adversely impact human health or the environment, and shall not cause or contribute to a violation of any water quality standards in any affected receiving water. 1997 General Permit, Receiving Water Limitations C.1, C.2; 2015 General Permit, Receiving Water Limitations VI.A, VI.B.

Dischargers are also required to prepare and submit documentation to the Regional Board upon determination that storm water discharges are in violation of the General Permit's Receiving Water Limitations. 1997 General Permit, p. VII; 2015 General Permit, Special Condition XX.B. The documentation must describe changes the discharger will make to its current storm water best management practices ("BMPs") in order to prevent or reduce any pollutant in its storm water discharges that is causing or contributing to an exceedance of water quality standards. *Id.*

The California Toxics Rule ("CTR") is an applicable water quality standard under the Permit, violation of which is a violation of Permit conditions. *Cal. Sportfishing Prot. Alliance v. Chico Scrap Metal, Inc.,* 2015 U.S. Dist. LEXIS 108314, *21 (E.D. Cal. 2015) CTR establishes numeric receiving water limits for toxic pollutants in California surface waters. 40 C.F.R. § 131.38. The CTR establishes a numeric limit for at least one of the pollutants discharged by Royal Gold: Zinc – 0.12 mg/L (maximum concentration).

The *Water Quality Control Plan for the North Coast Region* ("Basin Plan") also sets forth water quality standards and prohibitions applicable to Royal Gold's storm water discharges. The Basin Plan specifies existing and potential beneficial uses for both the Mad River and Mill (Hall) Creek. Existing beneficial uses for the Mad River include: municipal, agricultural supply, industrial service supply, industrial process supply, groundwater recharge, fresh water replenishment, navigation, hydropower generation, commercial and sport fishing, wildlife habitat, cold freshwater habitat, warm and cold spawning, migration, estuarine habitat, rare, threatened or endangered species, and contact and non-contact water recreation.

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## E. Applicable Effluent Limitations

Dischargers are required to reduce or prevent pollutants in their storm water discharges through implementation of best available technology economically achievable ("BAT") for toxic and nonconventional pollutants and best conventional pollutant control technology ("BCT") for conventional pollutants. 1997 General Permit, Effluent Limitation B.3; 2015 General Permit, Effluent Limitation V.A. Conventional pollutants include Total Suspended Solids, Oil & Grease, pH, Biochemical Oxygen Demand and Fecal Coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. 40 C.F.R. §§ 401.15-16.

Under the General Permit, benchmark levels established by the EPA ("EPA benchmarks") serve as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite BAT and BCT. *Santa Monica Baykeeper v. Kramer Metals,* 619 F.Supp.2d 914, 920, 923 (C.D. Cal 2009); 1997 General Permit, Effluent Limitations B.5-6; 2015 General Permit, Exceedance Response Action XII.A.

The following EPA benchmarks have been established for pollutants discharged by Royal Gold: Total Suspended Solids – 100 mg/L; Zinc – 0.117 mg/L; Phosphorous – 2.0 mg/l; Lead – .069 mg/l; Nitrate plus Nitrate Nitrogen – 0.68 mg/L; Oil and Grease – 15 mg/l; COD – 120 mg/l; pH – 6-9 s.u.; and Iron – 1 mg/L.

## F. Royal Gold's Storm Water Sample Results

Having thus far only sampled and tested twice, Royal Gold reported exceedances of water quality standards in both November of 2015 and June of 2016 for Iron, Zinc, and Nitrate. In June of 2016 Phosphorous, Chemical Oxygen Demand, and Total Suspended Solids exceedances were also reported.

The following discharges of pollutants from the Facility have violated the discharge prohibitions, receiving water limitations, and effluent limitations of the permit.

### 1. Discharge of Storm Water Containing Total Suspended Solids (TSS) at Concentrations in Excess of Applicable EPA Benchmark Value

| Date | Discharge[2] Point | Parameter | Concentration in Discharge (mg/L) | EPA Benchmark Value (mg/L) |
|---|---|---|---|---|
| 6/27/2016 | Coco Ditch | TSS | 820 | 100 |

[2] Labeled herein as identified in in Laboratory Results submitted by Royal Gold to the State Water Resources Control Board. Humboldt Baykeeper cannot identify and/or map these Discharge Points to those identified in the SWPPP.

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2. **Discharges of Storm Water Containing Zinc (Zn) at Concentrations in Excess of Applicable EPA Benchmark and CTR Values**

| Date | Discharge Point | Parameter | Concentration in Discharge (mg/L) | EPA Benchmark Value (mg/L) | CTR Criteria (mg/L) |
|---|---|---|---|---|---|
| 11/9/2015 | South Ditch B | Zn | 0.24 | 0.117 | 0.12 |
| 11/9/2015 | South Ditch A | Zn | 0.36 | 0.117 | 0.12 |
| 11/9/2015 | Coco Ditch | Zn | 0.27 | 0.117 | 0.12 |
| 6/27/2016 | Coco Ditch | Zn | 0.64 | 0.117 | 0.12 |

3. **Discharges of Storm Water Containing Iron (Fe) at Concentrations in Excess of Applicable EPA Benchmark Value**

| Date | Discharge Point | Parameter | Concentration in Discharge (mg/L) | EPA Benchmark Value (mg/L) |
|---|---|---|---|---|
| 11/9/2015 | South Ditch B | Fe | 1.1 | 1.0 |
| 11/9/2015 | South Ditch A | Fe | 6.8 | 1.0 |
| 6/27/2016 | Coco Ditch | Fe | 52 | 1.0 |

4. **Discharges of Storm Water Containing Nitrate plus Nitrate Nitrogen (N + N) at Concentrations in Excess of Applicable EPA Benchmark Value**

| Date | Discharge Point | Parameter | Concentration in Discharge (mg/L) | EPA Benchmark Value (mg/L) |
|---|---|---|---|---|
| 1/9/2015 | Coco Ditch | N + N | 21 | 0.68 |
| 6/27/2016 | Coco Ditch | N + N | 4.85 | 0.68 |

5. **Discharges of Storm Water Containing Phosphorous (P) at Concentrations in Excess of Applicable EPA Benchmark Value**

| Date | Discharge Point | Parameter | Concentration in Discharge (mg/L) | EPA Benchmark Value (mg/L) |
|---|---|---|---|---|
| 6/27/2016 | Coco Ditch | P | 5.6 | 2.0 |

**6. Discharges of Storm Water Containing Chemical Oxygen Demand (COD) at Concentrations in Excess of Applicable EPA Benchmark Value**

| Date | Discharge Point | Parameter | Concentration in Discharge (mg/L) | EPA Benchmark Value (mg/L) |
|---|---|---|---|---|
| 6/27/2016 | Coco Ditch | COD | 960 | 120.0 |

## G. Royal Gold's Sample Results Are Evidence of Violations of the General Permit

Royal Gold's sample results demonstrate violations of the General Permit's discharge prohibitions, receiving water limitations, and effluent limitations set forth above. Humboldt Baykeeper is informed and believes that the Royal Gold has known that its storm water contains pollutants at levels exceeding General Permit standards since at least August 10, 2011. Humboldt Baykeeper is also informed and believes that Royal Gold knows that other pollutants exist in their storm water and non-storm water discharges such that they should cease all authorized or unauthorized non-storm water discharges, and analyze their storm water samples for these other parameters of which they are aware.

Humboldt Baykeeper alleges that such violations occur each time storm water discharges from the Facility. Attachment A hereto, sets forth the specific rain dates on which Humboldt Baykeeper alleges that Royal Gold has discharged storm water containing impermissible levels of TSS, Zn, P, Fe, COD, and N + N in violation of the General Permit. 1997 General Permit, Discharge Prohibition A.2, Receiving Water Limitations C.1 and C.2; 2015 General Permit, Discharge Prohibitions III.C and III.D, Receiving Water Limitations VI.A, VI.B.

## H. Royal Gold Has Failed to Implement BAT and BCT

Dischargers must implement BMPs that fulfill the BAT/BCT requirements of the CWA and the General Permit to reduce or prevent discharges of pollutants in their storm water discharges. 1997 General Permit, Effluent Limitation B.3; 2015 General Permit, Effluent Limitation V.A. To meet the BAT/BCT standard, dischargers must implement minimum BMPs and any advanced BMPs set forth in the General Permit's SWPPP Requirements provisions where necessary to reduce or prevent pollutants in discharges. *See* 1997 General Permit, Sections A.8.a-b; 2015 General Permit, Sections X.H.1-2.

Royal Gold has failed to implement the minimum BMPs required by the General Permit, including: good housekeeping requirements; preventive maintenance requirements; spill and leak prevention and response requirements; material handling

and waste management requirements; erosion and sediment controls; employee training and quality assurance; and record keeping. 1997 General Permit, Sections A.8.a(i–x); 2015 General Permit, Sections X.H.1(a–g).

Royal Gold has further failed to implement advanced BMPs necessary to reduce or prevent discharges of pollutants in its storm water sufficient to meet the BAT/BCT standards, including: exposure minimization BMPs; containment and discharge reduction BMPs; treatment control BMPs; or other advanced BMPs necessary to comply with the General Permit's effluent limitations. 1997 General Permit, Section A.8.b; 2015 General Permit, Sections X.H.2.

Each day the Owners/Operators have failed to develop and implement BAT and BCT at the Facility in violation of the General Permit is a separate and distinct violation of Section 301(a) of the CWA (33 U.S.C. § 1311(a)). The violations described above were at all times in violation of Section A of the 1997 General Permit, and Section X of the 2015 General Permit. Accordingly, the Owners/Operators have been in violation of the BAT and BCT requirements at the Facility every day since at least August 10, 2011.

## I. Royal Gold Has Failed to Develop and Implement an Adequate Storm Water Pollution Plan

The General Permit requires dischargers to develop and implement a site-specific SWPPP. 1997 General Permit, Section A.1; 2015 General Permit, Section X.A. The SWPPP must include, among other elements: (1) the facility name and contact information; (2) a site map; (3) a list of industrial materials; (4) a description of potential pollution sources; (5) an assessment of potential pollutant sources; (6) minimum BMPs; (7) advanced BMPs, if applicable; (8) a monitoring implementation plan; (9) annual comprehensive facility compliance evaluation; and (10) the date that the SWPPP was initially prepared and the date of each SWPPP amendment, if applicable. *See id.*

Dischargers must revise their SWPPP whenever necessary and certify and submit via the Regional Board's Storm Water Multiple Application and Report Tracking System ("SMARTS") their SWPPP within 30 days whenever the SWPPP contains significant revisions(s); and, certify and submit via SMARTS for any non-significant revisions not more than once every three (3) months in the reporting year. 2015 General Permit, Section X.B; see also 1997 General permit, Section A.

Humboldt Baykeeper's investigation indicates that Royal Gold has been operating with an inadequately developed or implemented SWPPP in violation of General Permit requirements. Royal Gold has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary, resulting in the Facility's numerous effluent limitation violations. The Owners/Operators of Royal Gold are not sampling at each discharge location identified in the SWPPP, or testing for all required parameters.

Each day the Owners/Operators failed to develop and implement an adequate SWPPP is a violation of the General Permit. The SWPPP violations described above were at all times in violation of Section A of the 1997 General Permit, and Section X of the 2015 General Permit. The Owners/Operators have been in violation of these requirements at the Facility every day since at least August 10, 2011.

## III. Persons Responsible for the Violations

Humboldt Baykeeper puts Royal Gold on notice that it is the entity responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, Humboldt Baykeeper puts Royal Gold on formal notice that it intends to include those persons in this action.

## IV. Name and Address of Noticing Party

The name, address, and telephone number of the noticing party is as follows:

Jennifer Kalt, Director
Humboldt Baykeeper
1385 Eighth Street, Suite 228
Arcata, CA 95521
707.825.1020 or 707.499.3678
jkalt@humboldtbaykeeper.org

## V. Counsel

Humboldt Baykeeper has retained legal counsel to represent it in this matter. Please direct all communications to:

Jason Flanders
Anthony Barnes
ATA Law Group
409 45th Street
Oakland, CA 94609
917.371.8293
jrf@atalawgroup.com
amb@atalawgroup.com

## VI. Conclusion

Humboldt Baykeeper believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. We intend to file a citizen suit under Section 505(a) of the CWA against Royal Gold, LLC and its agents for the above-referenced violations upon the expiration of the 60-day notice period. If you wish to pursue

remedies in the absence of litigation, we suggest that you initiate those discussions within the next twenty (20) days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

Anthony M. Barnes
ATA Law Group
Counsel for Humboldt Baykeeper

ATA
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LAW GROUP

## SERVICE LIST

**VIA CERTIFIED MAIL**

Lisa Jackson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Alexis Strauss, Acting Regional Administrator
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812

Pamela Creedon, Executive Officer
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

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# EXHIBIT A

# EXHIBIT A

Rain Data from MCKINLEYVILLE 2.7 SE, CA US GHCND:US1CAHM0004
8-10-2011 - 8-10-2016
Days with Precipitation over .1

| Date | Precipitation (Inches) |
|---|---|
| 9.25.11 | .34 |
| 10.3.11 | .59 |
| 10.4.11 | .48 |
| 10.5.11 | 1.49 |
| 10.6.11 | 1.52 |
| 10.10.11 | .76 |
| 10.11.11 | .79 |
| 11.3.11 | .34 |
| 11.4.11 | .19 |
| 11.6.11 | 1.28 |
| 11.7.11 | .15 |
| 11.17.11 | .42 |
| 11.18.11 | .52 |
| 11.19.11 | .44 |
| 11.22.11 | .24 |
| 11.23.11 | .24 |
| 11.24.11 | 1.29 |
| 11.25.11 | .14 |
| 12.15.11 | .49 |
| 12.26.11 | .16 |
| 12.28.11 | .20 |
| 12.29.11 | .60 |
| 12.30.11 | 1.49 |
| 12.31.11 | .10 |
| 1.5.12 | .12 |
| 1.16.12 | .12 |
| 1.19.12 | 2.12 |
| 1.20.12 | 1.71 |
| 1.21.12 | 2.31 |
| 1.22.12 | .14 |
| 1.23.12 | .21 |
| 1.25.12 | 1.04 |
| 1.26.12 | .79 |
| 2.1.12 | .53 |
| 2.8.12 | .21 |
| 2.10.12 | .21 |
| 2.11.12 | .27 |
| 2.13.12 | .92 |
| 2.18.12 | .13 |
| 2.25.12 | .26 |
| 2.29.12 | .64 |
| 3.1.12 | .70 |

| Date | Precipitation (Inches) |
|---|---|
| 3.6.12 | .37 |
| 3.11.12 | .24 |
| 3.13.12 | 1.44 |
| 3.15.12 | .21 |
| 3.16.12 | 1.77 |
| 3.17.12 | .79 |
| 3.18.12 | .29 |
| 3.20.12 | .37 |
| 3.21.12 | .30 |
| 3.22.12 | .88 |
| 3.24.12 | .29 |
| 3.27.12 | .17 |
| 3.28.12 | .81 |
| 3.29.12 | .11 |
| 3.30.12 | 3.10 |
| 3.31.12 | 1.10 |
| 4.1.12 | .31 |
| 4.2.12 | .49 |
| 4.4.12 | .66 |
| 4.5.12 | .36 |
| 4.10.12 | .11 |
| 4.11.12 | .58 |
| 4.12.12 | .52 |
| 4.13.12 | .81 |
| 4.17.12 | .22 |
| 4.19.12 | .69 |
| 4.20.12 | .22 |
| 4.26.12 | .83 |
| 5.3.12 | .21 |
| 5.4.12 | .25 |
| 5.22.12 | .41 |
| 6.4.12 | .31 |
| 6.5.12 | .97 |
| 6.23.12 | .84 |
| 6.26.12 | .13 |
| 7.1.12 | .15 |
| 7.17.12 | .31 |
| 7.18.12 | .16 |
| 10.16.12 | 1.34 |
| 10.22.12 | 1.08 |
| 10.23.12 | .32 |
| 10.24.12 | .31 |
| 11.1.12 | .48 |
| 11.8.12 | .49 |
| 11.9.12 | .47 |
| 11.10.12 | .13 |
| 11.13.12 | .20 |
| 11.17.15 | .31 |

| Date | Precipitation (Inches) |
|---|---|
| 11.18.12 | .91 |
| 11.20.12 | .41 |
| 11.21.12 | 1.21 |
| 11.28.12 | .11 |
| 11.29.12 | .62 |
| 11.30.12 | 1.86 |
| 12.1.12 | .91 |
| 12.2.12 | 2.77 |
| 12.5.12 | .81 |
| 12.12.12 | .50 |
| 12.16.12 | .12 |
| 12.17.12 | .77 |
| 12.19.12 | .31 |
| 12.21.12 | 2.31 |
| 12.22.12 | 1.34 |
| 12.23.12 | .55 |
| 12.26.12 | 1.09 |
| 12.27.12 | .49 |
| 12.29.12 | .16 |
| 1.6.13 | .10 |
| 1.10.13 | .86 |
| 1.11.13 | .34 |
| 1.24.13 | .83 |
| 1.26.13 | .52 |
| 1.28.13 | .19 |
| 2.7.13 | .44 |
| 2.8.13 | .39 |
| 2.19.13 | .40 |
| 2.20.13 | .26 |
| 2.23.13 | .21 |
| 2.28.13 | .53 |
| 3.1.13 | .14 |
| 3.6.13 | 1.52 |
| 3.7.13 | .27 |
| 3.20.13 | .20 |
| 3.21.13 | .52 |
| 3.26.13 | .35 |
| 3.27.13 | .14 |
| 3.31.13 | .36 |
| 4.1.13 | .10 |
| 4.4.13 | .33 |
| 4.5.13 | .71 |
| 4.6.13 | .31 |
| 4.7.13 | .23 |
| 4.8.13 | 1.09 |
| 5.7.13 | .40 |

| Date | Precipitation (Inches) |
|---|---|
| 5.16.13 | .21 |
| 5.26.13 | .24 |
| 5.27.13 | .57 |
| 5.28.13 | .53 |
| 5.29.13 | .12 |
| 6.24.13 | .23 |
| 6.26.13 | .34 |
| 9.17.13 | .11 |
| 9.18.13 | .15 |
| 9.21.13 | .97 |
| 9.22.13 | .24 |
| 9.23.13 | .24 |
| 9.25.13 | .30 |
| 9.29.13 | 1.22 |
| 9.30.13 | 1.84 |
| 11.3.13 | .17 |
| 11.8.13 | .24 |
| 11.12.13 | .12 |
| 11.13.13 | .14 |
| 11.16.13 | .11 |
| 11.19.13 | .39 |
| 11.20.13 | .38 |
| 12.3.13 | .39 |
| 12.7.13 | .41 |
| 1.8.14 | .12 |
| 1.9.14 | .27 |
| 1.11.14 | .32 |
| 1.12.14 | .34 |
| 1.29.14 | .51 |
| 1.30.14 | .33 |
| 2.7.14 | .69 |
| 2.8.14 | .60 |
| 2.9.14 | .49 |
| 2.10.14 | .69 |
| 2.13.14 | 1.21 |
| 2.14.14 | 1.01 |
| 2.15.14 | 1.21 |
| 2.16.14 | .60 |
| 2.18.14 | .13 |
| 2.19.14 | .52 |
| 2.27.14 | .44 |
| 2.28.14 | .22 |
| 3.1.14 | .11 |
| 3.2.14 | .11 |
| 3.3.14 | .68 |

| Date | Precipitation (Inches) |
|---|---|
| 3.4.14 | .34 |
| 3.5.14 | .24 |
| 3.6.14 | .12 |
| 3.9.14 | .76 |
| 3.10.14 | 2.77 |
| 3.17.14 | .29 |
| 3.25.14 | .36 |
| 3.26.14 | .66 |
| 3.27.14 | .40 |
| 3.29.14 | 1.81 |
| 4.1.14 | .52 |
| 4.20.14 | .10 |
| 4.22.14 | .35 |
| 4.24.14 | .55 |
| 4.25.14 | .35 |
| 4.27.14 | .13 |
| 5.5.14 | .31 |
| 5.9.14 | .28 |
| 5.10.14 | .12 |
| 5.18.14 | .13 |
| 6.26.14 | .69 |
| 9.18.14 | 1.07 |
| 9.24.14 | .77 |
| 9.25.14 | 2.01 |
| 10.15.14 | .74 |
| 10.18.14 | .34 |
| 10.20.14 | 1.02 |
| 10.21.14 | .14 |
| 10.23.14 | 1.14 |
| 10.24.14 | .98 |
| 10.25.14 | .21 |
| 10.26.14 | .26 |
| 10.29.14 | .13 |
| 10.31.14 | .92 |
| 11.7.14 | .31 |
| 11.13.14 | .41 |
| 11.14.14 | .39 |
| 11.15.14 | .34 |
| 11.20.14 | .82 |
| 11.21.14 | .40 |
| 11.22.14 | 1.86 |
| 11.23.14 | .10 |
| 11.29.14 | 1.10 |
| 12.3.14 | .52 |
| 12.4.13 | .12 |

| Date | Precipitation (Inches) |
|---|---|
| 12.6.13 | 1.48 |
| 12.8.13 | .30 |
| 12.11.14 | 2.07 |
| 12.12.14 | .91 |
| 12.13.14 | .34 |
| 12.16.14 | .22 |
| 12.17.14 | .64 |
| 12.18.14 | .29 |
| 12.19.14 | .87 |
| 12.20.14 | .71 |
| 12.21.14 | 2.41 |
| 12.22.14 | 1.09 |
| 12.25.14 | .74 |
| 1.16.15 | .62 |
| 1.17.15 | .12 |
| 1.18.15 | 1.54 |
| 2.2.15 | .96 |
| 2.3.15 | .93 |
| 2.5.15 | .15 |
| 2.6.15 | 1.03 |
| 2.7.15 | 1.04 |
| 2.9.15 | .40 |
| 2.10.15 | .11 |
| 3.16.15 | .53 |
| 3.21.15 | .47 |
| 3.22.15 | .36 |
| 3.23.15 | .76 |
| 3.24.15 | 1.03 |
| 3.25.15 | .18 |
| 3.31.15 | .34 |
| 3.3.15 | .93 |
| 4.5.15 | .15 |
| 4.6.15 | .25 |
| 4.7.15 | 1.20 |
| 4.12.15 | .10 |
| 4.14.15 | .57 |
| 8.29.15 | .44 |
| 9.17.15 | .41 |
| 10.17.15 | .11 |
| 10.26.15 | .12 |
| 10.28.15 | .77 |
| 11.1.15 | .83 |
| 11.2.15 | .20 |
| 11.8.15 | .41 |

| Date | Precipitation (Inches) |
|---|---|
| 11.9.15 | .36 |
| 11.15.15 | 1.19 |
| 11.16.15 | .47 |
| 11.18.15 | .62 |
| 11.20.15 | .40 |
| 11.24.15 | .77 |
| 11.25.15 | .26 |
| 12.2.15 | .13 |
| 12.3.15 | .14 |
| 12.4.15 | 1.11 |
| 12.6.15 | .46 |
| 12.9.15 | 1.51 |
| 12.10.15 | .77 |
| 12.11.15 | 1.27 |
| 12.12.15 | 1.01 |
| 12.13.15 | 2.69 |
| 12.14.15 | .80 |
| 12.17.15 | .34 |
| 12.18.15 | 1.69 |
| 12.19.15 | 1.22 |
| 12.20.15 | .19 |
| 12.21.15 | .77 |
| 12.22.15 | 1.15 |
| 12.23.15 | .37 |
| 12.24.15 | 1.37 |
| 12.25.15 | .91 |
| 12.28.15 | .61 |
| 12.30.15 | .30 |
| 1.4.16 | .21 |
| 1.5.16 | .69 |
| 1.6.16 | .32 |
| 1.8.16 | .12 |
| 1.9.16 | .32 |
| 1.10.16 | .42 |
| 1.12.16 | .10 |
| 1.13.16 | .57 |
| 1.14.16 | .61 |
| 1.15.16 | .77 |
| 1.16.16 | .41 |
| 1.17.16 | 1.21 |
| 1.18.16 | 1.88 |
| 1.19.16 | .61 |
| 1.22.16 | .71 |

| Date | Precipitation (Inches) |
|---|---|
| 1.23.16 | .72 |
| 1.24.16 | .36 |
| 1.25.16 | .30 |
| 1.26.16 | .10 |
| 1.29.16 | 1.69 |
| 1.30.16 | .77 |
| 2.4.16 | .41 |
| 2.13.16 | .26 |
| 2.20.16 | .26 |
| 2.18.16 | .79 |
| 2.19.16 | .79 |
| 2.20.16 | .20 |
| 2.22.16 | .14 |
| 2.27.16 | .37 |
| 2.28.16 | .13 |
| 3.2.16 | .19 |
| 3.3.16 | .41 |
| 3.5.16 | .34 |
| 3.6.16 | 1.66 |
| 3.7.16 | .22 |
| 3.9.16 | .36 |
| 3.10.16 | 1.01 |
| 3.12.16 | .96 |
| 3.13.16 | .68 |
| 3.14.16 | .66 |
| 3.15.16 | .20 |
| 3.21.16 | .65 |
| 3.22.16 | .14 |
| 3.27.16 | .24 |
| 4.4.16 | .31 |
| 4.9.16 | .12 |
| 4.13.16 | .22 |
| 4.14.16 | .72 |
| 4.15.16 | .24 |
| 4.22.16 | .82 |
| 4.23.16 | .32 |
| 4.24.16 | .34 |
| 4.27.16 | .34 |
| 4.28.16 | .16 |
| 5.6.16 | .31 |
| 5.21.16 | .26 |
| 7.9.16 | .57 |
| 7.10.16 | .10 |